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January 19, 2006

VIA FACSIMILE AND U.S. MAIL

Liane Randolph, Chair
Philip Blair, Commissioner
Sheridan Downey, III, Commissioner
A. Eugene Huguenin, Jr., Commissioner
Ray Remy, Commissioner
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

**Re: Proposed Regulation 18361.10 - Designation of Certain
Adjudicated Decisions as Precedent; Agenda Item No. 22**

Dear Chairman Randolph and Commissioners Blair, Downey, Huguenin and
Remy:

On behalf of the California Political Attorneys Association ("CPAA"), we
are writing to you regarding proposed Regulation 18361.10 - Designation of
Certain Adjudicated Decisions as Precedent.

While we generally agree with the concept of designating certain adjudicated
decisions as precedent, we have some specific comments about the process
and the proposed regulation as currently drafted.

As to Decision Point 1, we agree with Staff that the phrase "not resulting
from a default judgment" should be included in section (a) of the regulation.
Default judgments do not have the benefit of a thorough vetting of the merits
of a case through the adversarial process participated in by motivated parties.
As they are adjudged based upon the purely procedural failings of a party,
they are not a proper basis for precedent.

Liane Randolph, Chair
Philip Blair, Commissioner
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A. Eugene Huguenin, Jr., Commissioner
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As to Decision Point 2, we believe that the phrase "and which issue as proposed decisions after the adoption of this regulation" should be included in section (a) of the regulation. Such a limitation would properly limit precedent designation to actions where the parties and/or their attorneys are still identifiable and motivated to fully argue the merits and relevant facts while fresh in their minds. Additionally, in presenting cases before an administrative law judge ("ALJ"), it is important for the parties and attorneys to realize that the decision rendered might be deemed precedential, as this might impact the evidence and arguments being presented. Finally, we are concerned about the selectivity that would necessarily be exercised in reviewing past ALJ decisions and deeming certain ones precedent.

As to Decision Point 3, we prefer the language of {3A} and its "tentative ruling" system over the more general language of {3B}. This will allow for greater public input on the Commission's decision. We also believe the language "or a petition for reconsideration has been denied" should be added at the end of subdivision (d).

With regard to whether certain stages of this process are conducted in open or closed session, we believe all stages of the process should be conducted in open session in furtherance of the Bagley-Keene Open Meeting Act.

With respect to requests from non-parties regarding precedent designations, subdivision (e) does not contemplate the situation where a non-party wants a decision not to be deemed precedential when the Commission has issued a tentative ruling that all or part of a decision should be deemed as precedent. We believe language should be added to permit this.

Subdivision (f)(2) is, in our view, awkwardly worded in that it is written in the negative: "Whether the request is vague, ambiguous or unintelligible." We believe it should be stated in the positive: "Whether the request is clear and unambiguous."

Finally, we believe the process for making a tentative ruling find is too open-ended in that the Commission is not required to make final its tentative rulings regarding precedent. After seeking public input and making a tentative ruling concerning precedent, it appears to us that a tentative ruling should automatically become final within a set period of time (e.g. 90 days) if no further comments are submitted.

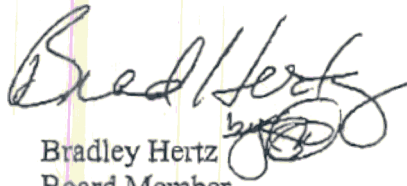
Liane Randolph, Chair
Philip Blair, Commissioner
Sheridan Downey, III, Commissioner
A. Eugene Huguenin, Jr., Commissioner
Ray Remy, Commissioner
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Thank you for your consideration. We look forward to discussing this matter further at the Commission's meeting this Friday.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Stephen Kaufman', with a long, sweeping horizontal line extending to the right.

Stephen Kaufman
President

A handwritten signature in black ink, appearing to read 'Bradley Hertz', with a circular flourish at the end.

Bradley Hertz
Board Member

cc: Andreas C. Rockas, Esq.